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#10
PATENT
(Docket No. 591-99-023)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of

James M. KUBIK et al

Serial No.: 09/435,570

Filed: November 8, 1999

For: NON-METALLIC, SNAP
TOGETHER SUBASSEMBLY OF
INTERNAL DOUBLE CHECK
VALVE

Group Art Unit: 3753

Examiner: G. Walton

I hereby certify that the attached
correspondence is being deposited with the
United States Postal Service as first class
mail in an envelope addressed to Assistant
Commissioner for Patents, Washington, D.C.
20231, on January 15, 2002.

Mary Ellen Donovan
Mary Ellen Donovan

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REPLY UNDER 37 CFR § 1.111

Hon. Commissioner of Patents and Trademarks
Washington, D.C.

Sir:

This is Applicants' response to the Office Action
mailed August 15, 2001. A petition under 37 CFR 1.136(a) and
fee for a two-month extension of time is submitted herewith.

The Office Action rejects claims 1-11 under 35 U.S.C.
§ 103(a) as unpatentable over any of Klimek '052, Klimek '721,
and Klimek '722 in view of Marty or Gonzolez. This rejection is
respectfully traversed.

Applicants' claim 1 specifies a valve housing having a
bore, a valve member in the bore having a first portion and a
second portion forming an interference fit with each other, and,
interposed between the first and second portions, and a check
valve assembly comprising a biasing member, a follower, and a

check valve member, with the three components of the check valve assembly maintained in an assembled state within the first and second portions of the valve member. The Office Action asserts that each element of Applicants' claim 1 is found in the Klimek references except for (a) a valve or second valve portion made of non-metallic material and (b) an interference fit with a groove and a raised protrusion or annular circumferential shoulder for removably securing first and second valve portions together. Applicants respectfully disagree.

As each of the Klimek references discloses essentially the same valve assembly (see Klimek '721 at col. 2, lines 7-9 and Klimek '722 at col. 1, lines 62-65), Applicants will refer to Klimek '052 in the discussion below.

The Office Action states that Klimek discloses every element of Applicants' claims except for the non-metallic and the interference fit; however, it does not provide any specifics. Applicants, however, have thoroughly reviewed the Klimek references and cannot find many other claim elements. For example, Klimek does not disclose any check valve assembly. As is well-understood in the art, a check valve is a special type of valve that allows flow in one direction and prevents flow in the other direction. Applicants are unable to identify any part of the Klimek valve assembly that would prevent flow in the reverse direction.

Moreover, even assuming *arguendo* that the Examiner asserts that a component of the Klimek valve would be a check valve, the Office Action's argument that it would be obvious to modify Klimek's components identified by the Office Action as

first and second valve member portions so as to form an interference fit with each other is flawed. In attempting to make the Klimek disclosure match the elements of Applicants' claims, the Office Action refers to Klimek '052 as having a first portion 11 and a second portion 4. The Office Action then asserts, without any supporting analysis that would be obvious to modify these portions to have an interference fit as taught by the secondary references, *if desired*. This of course begs the question as to why such modification might be desired. The Office Action is silent with regard to any motivation on why it would be desirable to modify Klimek. Without any such motivation, Applicants respectfully submit that the Office Action has not made out a case for *prima facie* obviousness.

Applicants further submit that not only is there no case for *prima facie* obviousness, but that the modification proposed by the Examiner would destroy the functionality of the Klimek valve. Klimek teaches that 11 is an axial sleeve, and that 4 is part of a piston 3, which piston also includes a portion 6. The Office Action teaches at col. 2, lines 7-8 that piston portion 6 must be reciprocal within axial sleeve 11, i.e., that the piston must be free to move within the sleeve. As Klimek's portions 4 and 6 are simply different portions of a single piston 3, any interference fit between the sleeve 11 and the piston portion 4 would prevent the piston from moving within the sleeve, thus destroying the functionality of the Klimek valve. Clearly, the modification of Klimek proposed by the Office Action could not be done.

For all the reasons above, Applicants respectfully submit that the claims are properly patentable over the cited references. As the application appears to be in condition for allowance otherwise, Applicants request early action toward that end.

Respectfully submitted,



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January 15, 2002
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